

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Janet Smith, Debra Thorne, Sonja Lindley  
and Pamela Kaberline, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

U.S. Bancorp, the Employee Benefits  
Committee and John/Jane Does 1-5,

Defendants.

Case No. 18-cv-03405-PAM-KMM

**JOINT STIPULATION**

Defendants U.S. Bancorp and the Employee Benefits Committee (“Defendants”) and Plaintiffs (collectively, the “Parties”) hereby enter into this Joint Stipulation and stipulate as follows:

On December 14, 2018, Plaintiffs filed a Class Action Complaint against Defendants. (Doc. 1.) Defendants moved to dismiss the Class Action Complaint. (Doc. 22.) On June 27, 2019, the Court denied Defendants’ Motion to Dismiss the Class Action Complaint. (Doc. 37.) On July 26, 2019, Defendants filed their Answer to Plaintiffs’ Class Action Complaint. (Doc. 41.)

On August 27, 2019, the Court entered a Pretrial Scheduling Order. (Doc. 48.) This Order set November 1, 2019 as the deadline to move for joinder of additional parties and amendment of pleadings. (*Id.*)

Plaintiffs have expressed the intent to seek leave to file an Amended Complaint to, among other things, add as defendants members of the Employee Benefits Committee or other U.S. Bancorp committees as additional alleged fiduciaries to the Plan. Defendants oppose Plaintiffs' anticipated request to add as defendants members of the Employee Benefits Committee or other U.S. Bancorp committees.

THEREFORE, to avoid any dispute about the propriety or need for Plaintiffs to add as defendants members of the Employee Benefits Committee or other U.S. Bancorp committees, and for purposes of this case only, it is hereby stipulated, by and between Plaintiffs and Defendants, through their undersigned attorneys, as follows:

1. Plaintiffs will not name as defendants in this action any current or former U.S. Bancorp board members, trustees, officers, committee members, or employees.
2. To the extent any current or former U.S. Bancorp board member, trustees, officers, committee members, or employees would have been liable for breach of fiduciary duty under ERISA, 29 U.S.C. §§ 1132 and 1109, for the claims alleged in the operative complaint, and those ERISA fiduciary breach claims that may be alleged in a subsequently amended complaint accepted by the Court under the Federal Rules of Civil Procedure, in this lawsuit for conduct between December 14, 2012 through a date determined by the Court as the end of the putative class period, U.S. Bancorp shall assume and be responsible for such liability. U.S. Bancorp's assumption of liability in this stipulation shall be limited to current or former board members, trustees, officers, committee members, or employees of U.S. Bancorp. In making this stipulation, U.S. Bancorp does not concede that any current or former board members, trustees, officers,

committee members, or employees engaged in any fiduciary activities or had any fiduciary responsibilities.

3. U.S. Bancorp agrees that it will voluntarily make any current U.S. Bancorp employee involved in the administration of the Plan available for deposition if requested by Plaintiffs as if the individual was a party in the action.

4. This stipulation is expressly entered into by the Parties to avoid Plaintiffs from having to name as defendants in this action any current or former U.S. Bancorp board members, trustees, officers, committee members, or employees, and shall not foreclose Plaintiffs from seeking to amend the operative complaint for any other purpose, including to add claims based on responsive information later disclosed by Defendants in this litigation. Defendants reserve all rights to object to and oppose any such efforts to amend the operative complaint.

5. A Proposed Order is attached hereto.

**IT IS SO STIPULATED AND APPROVED.**

DATED: November 8, 2019

/s/ Melissa D. Hill

Melissa D Hill (pro hac vice)

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DATED: November 8, 2019

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